THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.635 of 2007

24.4.2007

Between:

S.Ganesh Goud, W/o.Ramachander Goud

… Petitioner

AND

The Gram Panchayat, Devanpally, represented by its Village Secretary, Devanpally village, Kamareddy Mandal

And others

… Respondents

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WRIT PETITION No.635 of 2007

ORDER:

The petitioner is resident of Devanpally. He filed the present writ petition seeking a writ of Mandamus declaring the action of respondents in taking steps to dismantle residential building in plot No.7 admeasuring 244.4 Sq.yards in survey Nos.209/62, 209/63 and 209/64 situated at Devanpally village of Kamareddy Mandal in Nizamabad District, as illegal and arbitrary. He also seeks a consequential direction restraining the respondents from dismantling the building.

The petitioner claims to be the owner of the house site having purchased under registered sale deed dated 11.9.2000. He approached the Gram Panchayat for building permission, which was granted on 15.2.2000. He could not take up construction due to personal problems. He, therefore, asked the Gram Panchayat for renewal of the building permission, which was granted. But still he could not complete the construction. Therefore, he filed another application on 11.4.2006 along with building plan for building permission. Alleging that the Gram Panchayat neither granted permission nor rejected, placing reliance on Rule 26 of the Andhra Pradesh Gram Panchayat Land Development (Layout and Building) Rules, 2002 (the Rules, for brevity), petitioner proceeded with the construction. Allegedly, except fixation of shutters, the construction is completed. At that stage, first respondent is said to have visited the premises on 03.1.2007 and informed about demolition, aggrieved by which, the present writ petition is filed.

At the stage of admission itself, Panchayat Secretary of Devanpally filed counter affidavit. The receipt of application dated 11.4.2006 is denied. It is further stated that the petitioner has proceeded with construction work without obtaining permission and, therefore, the action under the Rules is contemplated.

The matter was heard on 16th and 17th of April 2007. As the

learned Standing Counsel for the Gram Panchayat denied receipt of the application dated 11.4.2006 allegedly sent by the petitioner and copy thereof is not annexed to the writ petition, learned Counsel for the petitioner sought time for production of the same. Today, he has produced copy of the application along with the certified copy of the postal acknowledgement issued by the Post Master, Kamareddy, which *prima facie* supports the contention of the learned Counsel. This Court, however, hastens to add that as there is a dispute about receipt of the application, it is always open to first respondent to enquire into the same and, if it is found that the petitioner has raised construction contrary to the layout or the building plan annexed to the application, to take necessary action in accordance with Rule 33 of the Rules, which empowers the Gram Panchayat to take suitable action including demolition of unauthorized construction. Unless and until appropriate action is initiated, it is needless to mention that the first respondent cannot resort to any action, which is not approved by law.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

April 24, 2007.

NOTE:
Dispatch order copy by
27.4.2007.
(By order)
YS